

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Proposal To Determine *Styrax texana* (Texas Snowbells) To Be an Endangered Species**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list a plant, *Styrax texana* (Texas snowbells), as an Endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This plant is endemic to Edwards, Real, Kimble, and possibly Val Verde Counties, Texas. These known populations are currently very vulnerable due to low numbers and a lack of reproduction. Populations are possibly threatened by cattle and deer browsing. This proposal, if made final, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *Styrax texana*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and State of Texas must be received by December 12, 1983. Public hearing requests must be received by November 25, 1983.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours by appointment, at the Service's Regional Office of Endangered Species,

421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see ADDRESSES above) (505/766-3972), or John Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:**Background**

Styrax texana (Family Styracaceae) was first discovered on July 4, 1940, by V.L. Cory and was described by him in 1943. This species grows as a shrub up to 3 meters high. The bark is smooth, the leaf blades are rounded, 4-8 centimeters long, about as broad as they are long, with entire to almost entire margins, bright green above, silvery below from dense, short, soft hairs. Flowers are in clusters of 3-5, showy and white. Flowering occurs in April and May. Reproduction has not been studied. It is of concern, however, that there are no known seedlings or saplings, indicating a lack of recent reproduction.

Styrax texana grows in crevices in limestone cliffs in juniper-oak savannas on the Edwards Plateau and in creosote bush shrub in the eastern Trans-Pecos basins. The dominant associated trees are *Quercus texana*, *Juniperus ashei*, and *Fraxinus texensis*. Dominant associated shrubs are *Garrya ovata*, *Berberis trifoliolata*, and *Bumelia lanuginosa* var. *texana* (Mahler, 1981).

Seven plants have been collected or reported from Polecat Creek, Cedar Creek, and Little Hackberry Creek in Edwards County and 14 from the East Prong of the Nueces River in Real County. Plants also are reported, but not verified, to be on the Horace Faucett Ranch in Val Verde County (Mahler, 1981). One additional plant had been reported from Edwards County, but was not located by Mahler. Eight plants have

been reported from Kimble County, four of which were located recently.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be Endangered, Threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the 1973 Act (Section 4(b)(3)(A) now), and of its intention thereby to review the status of the plant species included therein. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. *Styrax texana* was included in this proposal. Comments received in relation to this 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all listing proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired (44 FR 70796). *Styrax texana* was included thereafter in a list of plants under review for Threatened or Endangered classification published as a notice in the December 15, 1980, **Federal Register** (45 FR 82480). A 1981 status report and investigations carried out by Service botanists since December 1979 have now provided new biological data that form the basis for the present proposal. The new data includes information on

the low number of plants, the lack of reproduction in the species, its distribution, and ownership of the land on which the plants occur; they lead to the conclusion that *Styrax texana* is an Endangered species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 amendments) set forth procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered or Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Factor E is especially relevant to *Styrax texana*. All of the factors and their application to this species are as follows (Mahler, 1981):

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* Currently, *Styrax texana* is known to exist in three Texas counties: Real, Edwards, and Kimble. One historical report from Val Verde County has not been reconfirmed. In 1982, 25 plants were known to exist. Most of the sites on which the plant occur are in private ownership, but one site is a State-owned roadside park. At present, the State of Texas has no plans to change the maintenance procedures in the roadside park. Protection for the species at this site is nonexistent. Two of the private landowners are amenable to protecting the plants; however, there is no current planning for the species at any of the sites. At present, a known threat to the habitat is through natural erosion of a stream bank, which will probably soon eliminate one precariously located plant.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* At present, the taking of plants for scientific study is minimal; however, due to the small number of plants, collection should be prohibited or closely controlled. No taking prohibitions currently exist for the plants on private lands. *Styrax texana* is a shrub with attractive foliage and flowers and could be sought for horticultural purposes.

C. *Disease or predation* (including grazing). It has been suggested that the lack of seedlings and young plants may be due to browsing by cattle and/or deer. No data currently exist to confirm this suggestion, and additional studies are needed.

D. *Inadequacy of existing regulatory mechanisms.* There is currently no State or Federal protection for this plant.

E. *Other natural or manmade factors affecting its continued existence.* The lack of reproduction will affect the species' survival. The small number of plants tends to make the species more vulnerable to stress from natural or human-related factors and to intensify any adverse effects on the habitat.

Critical Habitat

The Act requires that Critical Habitat be determined at the time a species is listed to the maximum extent prudent. Critical Habitat is not being proposed for *Styrax texana* because of the potential threat to the species if its habitat were publicly identified. Publication of Critical Habitat maps in the **Federal Register** is required when Critical Habitat is designated. This publicity could lead to collection of the plants, and thus severely impact the populations due to the low number of the plants (25); it could also lead to habitat destruction during collection.

Available Conservation Measures

The effects of this proposal, if published as a final rule, would include, but would not necessarily be limited to, those mentioned below. Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. This rule would require Federal agencies to satisfy their statutory obligations with respect to this species. Federal agencies are required under section 7(a) (4) to confer with the Service on any action that is likely to jeopardize a species during the period the species is proposed for listing. If published as a final rule, this proposal will require Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of *Styrax texana*. Provisions for Interagency Cooperation which implement Section 7 of the Act are codified at 50 CFR Part 402. Interagency cooperative effects are expected to be minimal, as there are no known Federal activities or involvement planned for the areas in which plants are located.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** set forth a series of general trade prohibitions and exceptions that apply to all Endangered plant species. The regulations pertaining to Endangered plants are found at 50 CFR 17.61, 17.62, and 17.63 and are summarized in the following text. With respect to *Styrax texana*, all trade

prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. International and interstate commercial trade in *Styrax texana* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This species is not known from Federal lands, so no effect from this prohibition is expected.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903). It is anticipated that few taking permits for the species will ever be requested.

The Service will now review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia, and the Regional Office (see addresses section), and may be examined, by appointment, during regular business hours.

Public Comments Solicited

The Service intends that the rule finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other

concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to *Styrax texana* (Texas snowbells);

(2) The location of any additional population of *Styrax texana* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided by Section 4 of the Act; and

(3) Additional information concerning the range and distribution of this species.

Final promulgation of a rule on *Styrax texana* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final rule that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Author

The primary author of this proposed rule is Sandra Limerick, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972). Status

information, a preliminary listing package and Environmental Assessment were provided by Dr. William F. Mahler, Herbarium, Southern Methodist University, Dallas, Texas 75275. E. LaVerne Smith and John L. Paradiso of the Service's Washington Office of Endangered Species served as editors.

References

- Cory, V. L. 1943. The genus *Styrax* in central and western Texas. *Madrono* 7:110-115.
 Mahler, W. F. 1981. Status report: *Styrax texana*. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, NM. 9 pp.
 Mahler, W. F. 1981. Environmental assessment: Determination that *Styrax texana* Cory is Threatened. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, NM. 11 pp.
 Vines, R. A. 1960. *Trees, Shrubs, and Woody Vines of the Southwest*. Univ. of Texas Press. Austin. xii + 1104 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife,

Fish, Marine mammals, Plants (agriculture).

PART 172—[AMENDED]

Proposed Regulation Promulgation.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 is as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 [16 U.S.C. 1531, *et seq.*].

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order by family, the following to the list of Endangered and Threatened plants:

§ 17.12 Endangered and threatened plants.

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(h) * * *

Species		Historical range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Styracaceae—Storax Family:
<i>Styrax texana</i>	Texas snowbells.	U.S.A. (TX).....	E	.	NA	NA
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Dated: September 16, 1983.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

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